863

SUPREME COURT OF THE UNITED STATES.

No. 139.

THE UNITED STATES, APP'TS,

vs.

JOSE SERRANO.

APPEAL FROM THE DIST. COURT U. S. FOR THE SOUTHERN DIST. OF CALIFORNIA.

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GIDEON, print.

Transcript of the proceedings in case No. , José Serrano, claimant, vs. *The United States, defendant—for the place named .*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this first day of November, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of José Serrano, for the place named "Cañada de los Alisos," was presented and ordered to be filed and docketed with No. 431, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *November 4th*, 1852.

In case No. 431, José Serrano, for the place named "Cañada de los Alisos," the deposition of Abel Stearns, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with documents marked H. H, Nos. 1, 2 & 3, and translations thereof, marked B, D, F, annexed thereto, was filed.

(Vide page 5 of this Transcript.)

SAN FRANCISCO, *Aug. 16th*, 1853.

Case No. 431 called. The counsel for the claimant read the evidence; argued, submitted, and taken under advisement.

SAN FRANCISCO, *Oct. 21st*, 1853.

In the same case, Commissioner Thompson Campbell delivered the opinion of the board confirming the claim.

(Vide page 43 of this Transcript.)

Petition of José Serrano.

To the Hon. the Board of United States Land Commissioners appointed to settle private land claims in California.

The petition of José Serrano respectfully showeth: That on or about the third day of May, A. D. 1842, Juan B. Alvarado, then governor of California, in the name of the *name of the* Mexican nation, by virtue of laws then in force, the customs and usages of the country affecting grants of land in California, granted in full property unto

[1 S. D. K.]

Espediente promovido por el ciudadano José Serrano, en solicitud del parage conocido con el nombre de Cañada de los Alisos.—1841.

(274.)

[2 S. D. K.]

Sello Tercero, Dos Reales.

Habilitado por la administracion de la aduana maritima del puerto de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis, y mil ochocientos treinta y siete.

GUTIERREZ. ANGEL RAMIREZ.

Valga para los años de 1839 y 1840.

ALVARADO. ANTONIO MA. OSIO.

[Ad'a maritima de Monterey. Place of the Eagle.]

Señor Prefecto interino del Distrito:

José Serrano, ciudadano y vecino de esta ciudad, ante V. S. en la mejor forma legal haya lugar en derecho se presenta diciendo: Que deseoso de conseguir un parage para el fomento de mis bienes se movientes y hallando el parage conocido por el nombre de la Cañada de los Alisos, cuyo diseño acompaño por teneciente á la ex-mision de San Juan Capistrano, sin bienes ninguno y se puede decir valdio, mandar tomar los informes necesarios pa. q'l tomen los tramites se requieren la ley y no habiendo obstaculo q'l me sea cedido en propiedad pr. el gobierno superior. Por tanto suplico á la justificacion de V. S. q'l se digne atender á esta mi solicitud juro lo necesario, &c.

A ruego del interesado.

PERFECTO HUGO REID.

Angeles, Marzo 6, de 1840.

ANG'S, *M'zo* 6, *del* 1840.

Informe el s'or juez 2o. de paz de esta ciudad, D. Juan B. Leandry, sobre el contenido en esta inst'a y con respecto al interesado y luego pase al adm'ar de la mision de Sn. Juan Capistrano, pa. pa. su parte esponga lo q'l le convenga haciendo d'ho s'or juez q'l el solicitante presente previamente el correspond'te diseño del terreno q'l refiera.

[3 S. D. K.]

TAPIA,
NARCISO BOTELLA.

ANGELES, *Marzo* 27, 1840.

S. Pref'o int'o:

He tomado las noticias mas escrupulosas para indigar con respecto á la instancia de José Serrano, y no encuentro embarazo pa. q'l si V. S. tiene á bien se le conceda el terreno pues el sitio sé que esta valdio y el interesado tiene bienes y es hombre de bien.

JUAN B. LEANDRY.

Adm'ar de San Juan Capistrano, con respecto al informe—

[4 S. D. K.]

[Sello Tercero, Dos Reales

Habilitado por la administracion de la aduana maritima del puerto de Monterey, de la Alta California, para los años de mil ochocientos treinta y seis, y mil ochocientos treinta y siete.

GUTIERREZ. ANGEL RAMIREZ.

Volga para los años de 1839 y 1840.

ALVARADO. ANTONIO MA. OSIO.]

[Ad'a marit'a de Mont'y. Place of the Eagle.]

—que se me pide del terreno de los Alisos, digo q'l aunque no se ocupa diariamente se pastean en el bienes de la mision, particularmente en tiempos de guerra.

RAMON ARGUELLO.

San Gabriel, Abril 2, de 1840.

Ex'mo S'or Gobernador:

La prefecturo de este 2o. distrito impuesta de la instancia é informes q'l anteceden cree q'l es de accederse á la solicitud del interesado si asi fuere del superior agrado de V. E., en razon á q'l el terreno q'l se refiera se halla interamente valdio y Dn. José Serrano, tiene los requisitos suficientes pa. ser atendido.

TIBURCIO TAPIA,
NARCISO BOTELLO,
S'rio.

[5 S. D. K.] Monterey, Feb'o 15, de 1840.

Presidente pa. la junta. (A flourish.)

MONTEREY, 18 *de Junio, de* 1841.

Estiendose una concesion provisional á Dn. José Serrano, del parage de los Alisos, sugetandose á lo que despues se resuelva.

[*For map see original, page* 11.]

[7 S. D. K.] Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias:

Por cuanto el Ciudadano José Serrano ha pretendido para su beneficio, y el de su familia, el parage, conocido con el nombre de Cañada

de los Alisos, colindante con las lomerias inmediatas á la Cañada de los Alisos, con el Arroyo del Toro, con la sierra y con el camino ql. llaman de Abajo, practicadas previam'te las diligencias y aberiguaciones consernientes, segun dispuesto por leyes y reglamentos, mando de las facultades ql. me son conferidas á nombre de la nacion Mejicana, he venido en consederle el terreno mencionado declarandole la propiedad de el por las presentes letras sugetandose á la aprovacion de la ex'ma junta departam'tal, y á las condiciones siguientes:

1a. Podrá sercarlo sin perjudicar las travesias caminos y servidumbres; lo disfrutará libre y esclusivam'te destinandole al uso ó cultivo qe. mas le acomode, pero dentro de un año fabricará casa y estará habitada.

[8 S. D. K.] 2a. Solicitará del juez respectivo ql. le de posesion juridica en virtud de este despacho por el cual se demarcaran, los linderos en cuyos limites pondra á mas de las mojoneras algunos arboles, frutales, ó silvestres de alguna utilidad.

3a. El terreno de qe. se hace donacion es de un sitio de ganado mayor, segun esplica el diceño ql. corre en el espediente respectivo.

El juez ql. diere la posecion lo hará medir conforme á ordenanza quedando el sobrante ql. resulte á la nacion pa. los usos convenientes.

4a. Si contraviniere á estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando ql. teniendose por firme y valedero el presente titulo se tome razon, de el en el libro ql. corresponde, y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey, á trece de Mayo, de mil ochocientos cuarenta y dos.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such having in my office, and under my charge and control, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the eight preceding and hereunto annexed pages of tracing paper, numbered from one to eight inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, this twenty-third day of October, 1852.

[S. D. K.]

SAM'L D. KING,
Surveyor Gen'l, Cal'a.

Filed in office, Aug. 8th, 1853.

GEO. FISHER, *Sec'y.*

[1 S. D. K.]

(1846.)

Espediente promovido por el Ciudadano José Serrano en amplicacion de terreno al que posee.—No. 558.

[2 S. D. K.] Ex'mo Señor:

José Serrano, vecino de esta ciudad, ante V. E. en la mejor forma que haya lugar en derecho digo que obsequiandose la orden benal que medio V. E. tengo á bien adjuntamiente el diceño en duplica del terreno que he solicitado para aumentar del que actualmente poseo pa. que impuesto V. E. bea el tamaño y del mencionado terreno y decrete lo que considere de justicia. Por tanto, á V. E. suplico haya como pido en lo que recibire; gracia juro, &c.; dispensando del trazo de este papel por no haber del que corresponde.

Tachado—no vale.

Angeles, Febrero 18, de 1846.

No se firmar.

Ang's, *Feb'o* 18, *de* 1846.

Agreguese esta solicitud al espediente y uno de los diceños devolviendose el otro á Don José Serrano, con lo certificacion del secretario del despacho de gob'o.

PICO.

[3 S. D. K.] Ex'mo S'or:

José Antonio Serrano, viceno de esta cuidad, ante V. E. con el respecto debido comparesco y digo: que hayandome necesitado de de agrandar el terreno de mi rancho denuncio en toda forma de derecho un pedaso de terreno que se aya baldio por el rumbo de la sierrita al lado del norte y esta, contiguo á mis tierras y aun en mi titulo dise que se me diera esta las lomas, pero no se por que motivo no se me dio en vista de lo espuesto. A V. E. suplico decrete conforme á mi solicitud en lo que recibire gracia. Juro no ser de malicia y lo necesario, &c.; sirbiendose admitir esto en papel comun por falta de sellado.

Angeles, Noviembre 11, de 1845.

No se firmar.

Ang's, *N'bre* 11, *de* 1845.

Ocurra la parte que representa al juez 1o. de esta capital para que practique los informes necessarios y vuelva al gob'o pa. resolver.

PICO.

[4 S. D. K.] Ex'mo S'or:

No permitiendome mis ocupaciones haber pasado en persona hacer la division del terreno que solicite Don José Antonio Serrano nombre en consequencia al S'or D'n Bernardo Yorba, cuyo individuo me informo lo que consta en el oficio que tenga el poner de adjunta á V. E., para su intelligencia y en cumplimiento de lo que se me ordena por el superior decreto marginal.

Ang's, D'bre 13, de 1845. V'TE SANCHEZ.

[Gobierno del Dep'to de California.
Place of the Eagle.]

[5 S. D. K.] ANGELES, *Mayo* 27, *de* 1846.

Vista la peticion con que da principio este ciudad con todo lo demas que tuvo presente y vet convino, de conformidad con las leyes y reglamentos de la materia declaro á D'n José Serrano dueño, en propiedad de un sitio y medio de ganado mayor, en aun hacia al norte del que posee. Libresele el correspondiente titulo, tomese razon en el libro respectivo y dirijase este espediente á la ex'ma junta departamental para su aprobacion. Pio Pico, gobernador, asi lo mando, decrete y firmo, doy fée.

PIO PICO.

[6 S. D. K.] Habiendo recibido el oficio de V. f'ha 30 de el corriente en donde me dese que se lo ha estraviado el informe que mande de la solicitud que hace D. José Serrano de el terreno que solicita pose el dia 13 de S'bre, con los dos sugetos imparciales que V. me ordenó por oficio fecha 11 de S'bre, que V. se sirvió el pasarme pose á dicho terreno y me impuse hasta onde llegaban los linderos de las colindantes de dicho terreno y reconocimos dicho terreno pues es terreno baldillo el que solicita D'n José Serrano, lo que digo a V. pa. su conocimiento. Dias y libertad.

S'n Antonio, 31 de D're, de 1845.

BERNARDO YORBA.

Testigo man'l:
S'or Alcalde JOSE ALIPAS,
D. BISENTE SANCHEZ.

[*For map see original, page* 18.]

[8 S. D. K.]

Pio Pico, Gobernador Constitucional del Departamento de los Californias.

[Gobierno del depart'o de Californias. Place of the Eagle.]

Por cuanto D'n José Serrano, Mejicano por nacimiento, ha pretendido para su beneficio personal, y el de su familia lo ampliacion de mi terreno al que actualmente poseo el cual se halla valdio hacia el norte colinda por el sur con el arrollo de los Alisos lindero de el S'or Foster, el norte con los linderos de D'n Teodocio Yorba, y por el poniente con D'n José Sepulveda, y practicadas previamente las averiguaciones concernientes usando, de las facultades ql. me son conferidas á nombre de la nacion Mejicana, he venido por decreto de este dia en concederle el espresado terreno declarandole la propiedad de el por las presentes

letras de conformidad con la ley de 18 de Agosto, de 1824, y reglamentos de 21 de Noviembre, de 1828, y *reglamento de* 21 *de Noviembre, de* 1828, á reserva de la aprovacion de la ex'ma asamblea departamental, y bajo las condiciones siguientes:

1a. Podra cercarlo, sin perjudicar las travesias, caminas y servidumbres, lo disfrutara libre, y esclusivamente destinandolo al uso y cultivo, ql. mas le convenga.

2a. Solicitara del juez respectivo le de la posecion juridica, en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondra las mojoneras necesarias.

[9 S. D. K.]

3a. El terreno de que se le hace donacion es puramente el de un sitio, y medio de ganado mayor. El juez ql. lo posesione lo hara medir conforme á ordenanza quedando el sobrante ql. resulte á la nacion, pa. los usos ql. sean convenientes.

4a. Si contraviniese á estas condiciones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando ql. teniendose el presente titulo por firme, y valedero se tome razon de el en el libro respectivo, y se entregue al interesado, para su resguardo y demas fines. Dado en la ciudad de Los Angeles, en este papel comun por falta absoluta del sellado, á veinte del Mayo, de 1846, ochocientos cuarenta y seis.

Office of the surveyor general of the United States for the State of California, and as such now having under my charge and control a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby that the nine preceding and hereunto attached or annexed pages of tracing paper, numbered from one to nine, inclusive, and each of which is verified by my initials [S. D. K.], exhibit true and accurate copies of certain documents on file and forming parts of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., this 23d day of October, 1852.

[S. D. K.]

SAML. D. KING,
Surv'r Gen'l Cal.

Filed in office, Augs. 8, 1853.

GEO. FISHER, *Sec'y.*

Your Excellency:

I, José Serrano, a resident of this city, before your excellency, in the best form that the law may admit, do state, that in obedience to the verbal order your excellency gave me, I duly subjoin the sketch in duplicate of the premises I have solicited in augmentation of those I actually possess, to the end that your excellency, on perceiving the same, may see the size and aspect of the said tract, and decree what may be deemed just; wherefore I beseech your excellency to do according to my

prayer, wherein I shall receive grace; I make oath, &c. Excuse me for using this paper, there being none of the appropriate.

Effaced—mende—out.

I do not know how to sign.

ANGELES, *Feb.* 18, 1846.

Let this petition be annexed to the minutes of proceedings and one of the sketches, the other being returned to Dn. José Serrano, with the certificate of the secretary of the government.

PICO.

Your Excellency:

I, José Antonio Serrano, a resident of this city, before your excellency with due respect, do appear and say, that finding myself obliged to increase the extent of my rancho, I denounce in all legal form a piece of land which is unoccupied in the direction of the small mountain chain on the north side and contiguous to my lands; and although my title sets forth that I am to receive as far as the hills, still I do not know for what motive the same was not given to me; and in consideration of the aforesaid, I beseech your excellency to decree according to my petition, wherein I shall receive grace. I make oath, that I do proceed through malice, adding the necessary verifications, &c. Be pleased to admit this petition on common paper, there being none stamped.

Angeles, November 11, 1846.

I do not know how to sign.

ANGELES, *Nov.* 11, 1845.

Let the party who petitions apply to the first judge of this capital, to the end that he may make the proper reports, and let return be made to the government for further action.

PICO.

Your Excellency:

My occupations not having permitted me to repair in person to take a view of the premises solicited by D'n José Serrano, I commissioned by appointment Señor D'n Bernardo Yorba, which individual reported what appears in the communication which I have the honor to annex, to your excellency for your information, and in compliance with what I am ordered to do by the superior marginal decree.

Angeles, December 19, 1845.

VICENTE SANCHEZ.

ANGELES, *May* 27, 1846.

In view of the petition wherewith the proceedings originate, the report of the first judge of this city together with all the other things that were brought forward, I now behoving to be kept in view in conformity the laws and regulations affecting the matter, I declare D'n José Serrano to be owner in full property of one and a half square league, (sitio de ganado mayor,) in augmentation towards to the north of that which he possess; let the appropriate title be issued, let it be entered in the proper book, and let these minutes of proceedings be for-

warded to the most excellent departmental assembly for its approbation. Pio Pico has so ordered, decreed and subscribed.

Witness. PIO PICO.

Having received your official communication dated 10th instant, wherein you state you have lost the report which I sent concerning the petition, which Don José Serrano makes for the tract he solicits, I repaired on the 13th November, with the two impartial men whom you ordered me to take by communication dated 11th November, which you were pleased to forward to me, I went to said premises and ascertained how far reached the boundaries of premises adjoining said tract, and inspected said tract.

The premises solicited by Don José Serrano are unoccupied, which I state to you for your information. God and Liberty!

San Antonio, 14 December, 1845.

BERNARDO YORBA.

Witness:
ML. IGLES,
JOSE ALEJAO.

To the hon. 1st Alcalde, DN. VC'TE SANCHEZ.

Filed Aug. 8th, 1853.

GEO. FISHER, *Sec'y*.

Pio Pico, Gobernador Constitucional del Departamento de las Californias:

[Gobierno del Depart'o de Californias. Place of the Eagle.]

Por cuanto Dn. José Serrano, Mejicano, por nacimiento ha pretendido pa. su beneficio personal y el de su familia, la ampliacion de un terreno al que actualmente posee el cual se halla valdio hacia el norte y colinda, por el sur con el Arollo de los Alisos, lindero del S'or Foster, por el norte con los linderos de Dn. Teodocio Yorba, y por el poniente con Dn. José Sepulveda, practicadas previamente las averiguaciones concernientes, usando de las facultades ql. me son conferidas á nombre de la nacion Mejicana he venido, por decreto de este dia en concederle el espresado terreno declarandole la propiedad de el por las presentes letras de conformidad, con la ley de 18 de Agosto, de 1824, y reglamento de 21 de Noviembre, de 1828, á reserva de la aprobacion de la ex'ma asamblea departamental, y bajo las condiciones siguientes:

1a. Podra cercarlo sin perjudicar las travesias, caminas y servidumbres, lo disfrutará libre y exclusivamente, destinandolo al uso y cultivo ql. mas le convenga.

2a. Solicitara del juez respectivo le de la posecion juridica en virtud de este despacho por el cual se demarcaran, los linderos en cuyos limites pondran á las mojoneras necesarias.

3a. El terreno de ql. se le hace donacion es puramento el de un sitio y medio de ganado mayor. El juez ql. lo posesione lo hara medir

conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos que sean convenientes.

4a. Si contraviniere á estas condiciones perdera su derecho al terreno y será denunciable por otro.

En consecuencia mando ql. teniendose el presente titulo, por firme y valedero se tome razon, de el en el libro respectivo, y se entregue al interesado para su resguardo y demas fines.

Dado en la ciudad de Los Angeles, en este papel comun, por falta absolute del sellado á veinte siete de Marzo, de mil ochocientos cuarenta y seis.

PIO PICO.

JOSE MATIAS MORENO,
S'rio Interino.

Queda tomada razon de este superior despacho en el libro respectivo.

MORENO.

Filed in office, Nov. 4, 1854.

[ ] GEO. FISHER, *Sec'y.*

Exhibit D.

Pio Pico, Constitutional Governor of the department of the Californias:

Whereas Don José Serrano, a Mexican by birth, has claimed for his personal benefit and that of his family the addition of a tract of land to that which he possesses at present, which tract is now unoccupied towards the north, and is bounded south by the Arroyo de los Alisos, boundary of Mr. Foster, north by the boundaries of Don Theodoro Yorba, and west by Don José Sepulveda; the investigations in that behalf having previously been made: In the exercise of the powers conferred upon me, in the name of the Mexican nation, I have come by decree of this day to grant to him the said tract, declaring the ownership thereof to be in him by these present letters, in conformity with the law of the 18th of August, 1824, and regulations of the 21st of November, 1828, under reservation of the approbation of the most excellent the departmental assembly, and under the following conditions:

1st. He may fence without prejudice to the cross-roads, highways and rights of way. He may enjoy freely and exclusively, devoting it to such use and cultivation as best may behoove him.

2d. He shall petition the judge who has jurisdiction to give him juridical possession by virtue of this grant; such judge shall assign the boundaries in whose lines shall be placed the necessary landmarks.

3d. The tract hereby granted consists in one and a half range (sitio) for neat cattle. The judge who gives possession shall caused to be measured conformably to ordinance any surplus that may result, remaining the property of the nation for such uses as may behoove the same.

4th. If he violate these conditions he shall lose his right to the land, and it may be denounced by another person. Wherefore I order that

the present title, being held as firm and valid, be entered of record in the appropriate book, and delivered to the party in interest for his protection and further purposes.

Given at the city of Los Angeles on this common paper, there being absolutely none stamped, on the twenty-seventh of May, one thousand eight hundred and forty-six.

PIO PICO.
JOSE MATIAS MORENO,
Secretary ad Interim.

Entered of record this superior patent in the appropriate book.
MORENO.

Translation of H. H., No. 3, annexed to the dep'n of Abel Stearns, Nov. 4, 1852.

GEO. FISHER, *Sec'y.*

Filed in office, Nov. 1, 1852.

GEO. FISHER, *Sec'y.*

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias:

[Gobierno Politico de la Alta California. Place of the Eagle.]

Por cuanto Dn. José Serrano, ha solicitado el parage nombrado Cañada de los Alisos, para el beneficio personal y el de su familia, y hallendose corriendo las tramites correspond'tes el espediente de la materia, he dispuesto permitir ql. el indicado Dn. José Serrano ocupe d'ho parage, sugetandose á lo ql. despues se resolviere.

Monterey, Junio 18, de 1841.

ALVARADO.

Filed in office, Nov. 4th, 1852.

GEO. FISHER, *Sec'y.*

Juan B. Alvarado, Constitutional Governor, Department of the Californias:

[L. S.] Whereas Don José Serrano haslocated the tract called Cañada de los Alisos for his personal benefit, and that of his family, and whereas the proceedings in that behalf are now in due course of progress, I have ordered that said Don José Serrano have permission to occupy said tract, subjecting himself to what may be afterwards determined.

Monterey, June 18th, 1841.

ALVARADO.

Filed in office, Nov. 1st, 1852.

GEO. FISHER, *Sec'y.*

Translation of H.H, No. 1, annexed to the dep. of Abel Stearns, Nov. 4, '52.

GEO. FISHER, *Sec'y.*

Posecion dada de la Cañada de los Alisos.—Año de 1842.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ALVARADO. ANTONIO MA. OSIO.

Doc. H.H, No. 2.

Rehabilitado por la misma, pa. el año de mil ochocientos cuarenta y dos.

ALVARADO. ANTONIO MA. OSIO.

[Ad'a Marit'a de Mont'y. Place of the Eagle.]

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias:

Por cuanto el ciudadano José Serrano ha pretendido para su beneficio personal y el de su familia terreno conocido con el nombre de Cañada de los Alisos, colindante al este con las lomas de la misma cañada, al oeste con el Arroyo del Toro, al sur con el camino de San Joaquin, y al norte con la sierra; practicadas las diligencias y averiguaciones concernientes, segun lo dispuesta por leyes y reglamentos, usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido en concederle la propiedad de el por las presentes letras sugetandose á la aprobacion de la ex'ma junta departamental y bajo las condiciones siguientes:

1o. Podra cercarlo, sin perjudicar las travesias, caminas y servidumbres, lo disfrutara libre y esclusivamente, destinandolo al uso o cultivo que mas le acomode, pero dentro de un año fabricará casa y estara habitada.

2a. El terreno de que se hace mencion es de un sitio y medio de ganado mayor poco mas á menas, segun esplica el diseño q'l corre agregada en el espediente respectivo. El juez q'l diere la posecion lo hará medir conforme á ordenanza, quedando el sobrante q'l resulte á la nacion para los usos conbenientes.

3a. Solicitará del juez respectivo q'l le de posecion juridica en virtud de este despacho por el cual se demarcarán los linderos en cuyos limites pondra á mas de las mojoneras algunas arboles frutales, ó silvestres de alguna utilidad.

4a. Si contraviniere á estas condiciones perderá su derecho al terreno y sera denunciable por otro.

En consecuencia man—

[Sello Tercero, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta, y mil ochocientos cuarenta y uno.

ALVARADO. ANTONIO MARIA OSIO.

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Rehabilitado por la misma para el año de mil ochocientos cuarenta y dos.

ALVARADO. ANTONIO MARIA OSIO.]

[Ad'a maritima de Monterey. Place of the Seal.]

—do q'l teniendose por firme y validero el presente titulo se tome razon de el en el libro respectivo y se entregue al interesado para su resguardo y demas fines.

Dado en Monterey, á tres de Mayo, de mil ochocientos cuarenta y dos.

JUAN B. ALVARADO.
MAN'L JIMENO, *S'rio.*

Queda tomada razon de este despacho en el libro de asientas sobre adjudicacion de terrenos baldios á foja 11 vueltos.

JIMENO.

El E. J. gob'r ordena se tome razon de esta concesion en la prefectura del seguno distrito.

JIMENO.

ANGELES, *Mayo* 14, *de* 1842.

Queda tomada razon de este titulo á fs. 2 vuelta del libro respectivo llevado en la prefectura del segundo distrito.

JOSE R. ARGUELLO, *S'rio.*

En la ciudad de Los Angeles, del departamento de las Californias, á las seis dias del mes de Junio, de mil ochocientos cuarenta y dos anuente á la solicitud verbal q'l hizo á este juzgado D. José Serrano, pa. q'l se le de la correspondiente posecion del parage nombrado Cañada de los Alisos, concedida por el superior gobierno departamental, como consta del titulo q'l presento. Pasase por mi y lós testigos de asistencia y procedase á dar la posecion, indicada con arreglo á lo citado titulo y peticion verbal siendo el titulo q'l se menciona conferida por el superior gobierno departamental, en tres de Mayo, de este año. Asi yo, Manuel Dominguez, juez 1o. de paz y de primera instancia, decreté, mandé y firmé con los de mi asistencia, segun derecho en este papel comun por falta de sellado, doy fée.

MANUEL DOMINGUEZ.

Asistencia: IGNACIO CORONEL,
Asistencia: GREGORIO DE LOS RIOS Y RUIZ.

En la misma f'ha yo el juez ql. subscribe pase oficio á los colindantes, manifestandoles el objeto á que me dirigia al punto de la Cañada de los Alisos, pues iba á remedirlo, y poner en posecion á Don José Serrano, de estos señores colindantes el unico ql. manifesto excepcion fue Don Santiago Emilio Arguello, manifestando pertenecerle parte del terreno; pero como no lo justifico de uno manera ql. destruyese el titulo del gobierno departamental, dado á Serrano, le

[Correg'da.]

dijo procedia á dar las medidas en cumplimiento de la superior disposicion, lo que asiento por diligencia ql. autorisa y firme, con los de asistencia, segun d'ro. MANUEL DOMINGUEZ.

Ass'a: IGNACIO CORONEL,
Ass'a: JOAQUIN DE LOS RIOS Y RUIZ.

En la misma f'ha pa. la practica de estas diligencias, nombre dos oficiales cordeleros ql. lo fueron dos ql. no saben escriber, y por eso se omiten sus nombres los ql. aceptaron bajo de juramento, ofreciendo desempeñar fielmente su encargo lo ql. autorize y firme, con los de mi asistencia, segun d'ro.

[Correg'da.] MANUEL DOMINGUEZ.

Ass'a: IGNACIO CORONEL.
Ass'a: JOAQUIN DE LOS RIOS Y RUIZ.

En la misma f'ha estando en el camino de San Juan, punto sur á efecto de verificar las remedidas y posecion ql. corresponde á Don José Serrano, previos todos los requisitos de ley, y estando ante mi los testigos de asistencia, y los oficiales cordeleros hize medir un cordel constante de cincuenta varas, al cual fue examinado y conocido, por mi, y mandando atar en sus estremos unos sancos de madera, previa observacion y calculo por mi disposicion, se tiro el cordel desde la orilla del camino de San Juan, punto sur y se midieron, y contaron cinco mil varas ql. remataron en el norte en un cerrito donde havia unas piedras, y se mando poner una mojonera á enderesar en lo posible la linea desde este lugar punto. Este y cambiando el rumbo se midieron, y contaron mil novecientos varas ql. remataron en el arroyo del Toro al oeste. Estando en el citado arroyo punto norte se tiró la cuerda y se contaron, y midieron seis mil varas ql. remataron en un lugar cerco del camino de abajo de S. Joaquin, donde se mandó poner una mojonera. Desde este lugar, y cambiando el rumbo se contaron, y midieron cinco mil quinientos varas ql. remataron en el lugar donde se comensaron las medidas, advertiendo se pusiesen las mojoneras respectivas. Concluyendo por tal motivo el acto y dandose, por satisfecho y posesionado Dn. José Serrano. Teniendose presente ql. para el completo de un sitio no le alcanzó terreno, aun con todo y haberle cedido Dn. José Sepulveda, un corto pedazo, por la parte del aliso grande, lo ql. autorizé y firmé para constancia, con los de mi asistencia, segun d'ro.

MAN'L DOMINGUEZ.

Ass'a: IGNACIO CORONEL,
Ass'a: JOAQUIN DE LOS RIOS Y RUIZ.

Desele testimonio á la parte de las presentes diligencias, y como comprabante de su posecion. Asi yo Manuel Dominguez, Juez 1o de paz y de 1a instancia, decrete, y mande con los de assa., segun d'ro.

MANUEL DOMINGUEZ.

Ass'a: IGNACIO CORONEL,
Ass'a: JOAQUIN DE LOS RIOS Y RUIZ.

En la f'ha se libro el testimonio respectivo.

(Rubrica.)

Concuerda con su original á que me remitto, y existe en el libro de instrumentos publicos de este año, de cuyo original se saco fiel, y legalmente en estos cinco fojas de papel comun, por falta de sellado, habiendose corregido y confrontado.

En testimonio de verdad.

MANUEL DOMINGUEZ.

Ass'a: IGN'O CORONEL,
Ass'a: JOAQ'N DE LOS RIOS Y RUIZ.

Filed in office, Nov. 4th, 1852.

GEO. FISHER, *Sec'y*.

Exhibit F.—Translation, Juridical Possession.

Third Class Stamp, Two-eighths of one dollar.

Issued provisionally by the maritime c'oms of the port of Monterey, in the department of the Californias, in the years one thousand eight hundred and forty and one thousand eight hundred and forty-one.

ALVARADO. ANTONIO MARINO OSIO.

[L. S.]

Re-issued by the same, for the year one thousand eight hundred and forty-two.

ALVARADO. ANTONIO MORENO OSIO.

Juan B. Alvarado, Constitutional Governor of the Department of the Californias:

Whereas citizen José Serrano has claimed for his personal benefit, and that of his family, the tract of land known by the name of Cañada de los Alisos, bounded east by the hills of the said cañada, west by the Arroyo de Toro, south by the road of San Joaquin, and north by the sierra; the proceedings and investigations in that behalf having first been instituted according to the tenor of laws and regulations: In the exercise of the powers conferred upon me in the name of the Mexican nation, I have come to grant unto him the tract in question, declaring the ownership thereof to be vested in him by virtue of these present letters, subject to the approval of the most excellent the departmental assembly, and under the following conditions:

1st. He may fence it without prejudice to the cross-roads, highways and rights of way, devoting it to such uses or cultivation as best may suit him, but within one year he shall build a house and it shall be inhabited.

2d. The tract in question consists of one range (sitio) for neat cattle, a little more or less, as explained by the plan annexed to the minutes and proceedings relating to this matter. The judge who gives possession shall cause it to be measured conformably to ordinance, any surplus that may result remaining the property of the nation for its behooving uses.

3. He shall petition the judge having jurisdiction to give him juridical possession, by virtue of this grant; said judge shall assign the boundaries in the lines whereof the grantee shall place besides the landmarks some fruit or serviceable forest trees.

4. If he contravene these conditions he shall lose his right to the premises, and the same may be denounced by any other person.

Wherefore I—

[L. S.—Stamp clause as above.]

—order that the present title, being held as firm and valid, be entered of record in the appropriate book, and delivered to the party interested for his protection and other purposes. Given at Monterey, on the third day of May, eighteen hundred and forty-two.

JUAN B. ALVARADO.
MANUEL JIMENO, *Sec'y.*

This grant is entered of record in the book of entries concerning adjudications of unoccupied lands, at page 11, &c.

JIMENO.

His excellency the governor orders that this grant be entered of record at the prefecture of the second district.

JIMENO.

Angeles, May 14th, 1842.

This title is entered of record at page 2, &c., of the appropriate book kept at the prefecture of the 2d district.

JOSE R. ARGUELLO, *Secretary.*

At the city of Los Angeles, of the department of the Californias, on the sixth day of the month of June, one thousand eight hundred and forty-two, in compliance with the verbal petition made to this tribunal by Don José Serrano, to the effect that due possession be given to him of the tract called Cañada de los Alisos by the superior departmental government, as appears by the title which he presented:

Ordered that I and my attesting witnesses repair and proceed to give the said possession agreeably to the said title and petition, the title in question having been conferred by the superior departmental government on the third of May of this year.

I, Manuel Dominguez, first justice of the peace, and of first instance, have decreed, ordered and subscribed with my attesting witnesses, according to law, on this common paper, for want of the stamped. Certified.

MANUEL DOMINGUEZ.

Attest: IGN'O CORONEL,
Attest: JOAQUIN DE LOS RIOS Y RUIZ.

On the same date, I, the undersigned judge, sent summons to the owners of adjoining lands, informing them of the object of my visit to the premises of Cañada de los Alisos, viz: that I was going to measure the same over, and place in possession Don José Serrano, among said

gentlemen owners of adjoining lands; the only one who offered any objection was Don Santiago Emilio Arguello, who states that a part of the tract belonged to him, but as he did not prove it in a way to destroy the title of the departmental government given to Serrano, I told him I would now proceed to give the measurements in compliance with the superior order. Whereof I take minute, which I certified and subscribed with the attesting witnesses, according to law.

MANUEL DOMINGUEZ.

Attest: IGNACIO CORONEL,
Attest: JUAN DE LOS RIOS Y RUIZ.

On the same date, for the practical part of these proceedings, I appointed two official line-bearers; these were two persons who do not know how to write, wherefore their names are omitted; they accepted their appointment, promising under oath to discharge faithfully their office, which I certified and subscribed with my attesting witnesses, according to law.

MANUEL DOMINGUEZ.

Attest: IGNACIO CORONEL,
Attest: JOAQUIN DE LOS DIOS Y RUIZ.

On the same date, being on the road to San Joaquin, at the south, for the purpose of making the measurements and delivery of possession to which Don José Serrano was entitled, all the legal requisites being complied with, and having in my presence the attesting witnesses and official line-bearers, I caused a line to be measured consisting of fifty varas, which was examined and verified by me, and ordered wooden poles to be fastened at its extremities; after due observation and calculation, the line was drawn from the edge of the road of San Joaquin, at the south; there were measured and counted five thousand varas, which ended north at a steep hill where stood some pines, and a boundary was ordered to be placed so as to rectify the line as much as possible; from this place at the east the course was changed, and then were measured and counted one thousand nine hundred varas, which terminated at the arroyo of the Toro, to the west; being at the same arroyo, at the north, the line was drawn, and there were counted and measured six thousand varas, which ended at a spot near the lower road of San Joaquin, where a landmark was ordered to be placed; from this point the course being altered, there were counted and measured five thousand five hundred varas, which ended at the place where the measurements were commenced. Notice was given that the appropriate landmark be set up; the proceedings therefore ended, and D'n José Serrano declared himself satisfied and in possession. It is to be kept in mind, that there was not land enough to complete one "sitio," although Don José Sepulveda ceded to him a small piece of the Aliso Grande, which I certified and subscribed for testimony with the attesting witnesses, according to law.

MANUEL DOMINGUEZ.

Attest: IGNACIO CORONEL,
Attest: JOAQUIN DE LOS RIOS Y RUIZ.

Let certificate issue to *let certificate issue to* the party of the present proceedings of evidence of his possession. I, Manuel Dominguez, first justice of the peace and of the first instance, have so deemed and ordered, with the attesting witnesses, according to law.

MANUEL DOMINGUEZ.

Attest: IGNACIO CORONEL,
Attest: JOAQUIN DE LOS RIOS Y RUIZ.

On the same date, the due certificate was issued.

(A Scroll.)

A true copy of the original to which I refer, and which exists in the book of public instruments of this year, from which original it was faithfully and legally taken on these five sheets of common paper, there being none stamped after correction and collation. In testimony of truth.

MANUEL DOMINGUEZ.

Attest: IG'O CORONEL,
Attest: JOAQUIN DE LOS RIOS Y RUIZ.

Translated Nov. 4th, 1852.

GEO. FISHER, *Sec'y.*

Filed in office, Nov. 1st, 1852.

GEO. FISHER, *Sec'y.*

Third class stamp, Two-eighths of one dollar.

Issued provisionally by the administrator of the maritime customs of the port of Monterey, in Alta California, for the years one thousand eight hundred and thirty-six and one thousand eight hundred and thirty-seven.

GUTIERREZ. ANGEL RAMIREZ.

Good for the years 1839 and 1840.

[L. S.]

To the honorable the Prefect ad interim of the District:

José Serrano, a citizen and resident of this city, before your honor in the best legal form which the law may admit, presents himself and says, being desirous of obtaining a tract for the increase of my stock, and having discovered the tract known by the name of Cañada de los Alisos, whose plan is subjoined to the ex-mission of San Juan Capistrano, which is entirely without stock and may properly be said to be waste, I respectfully beseech and pray your honor to be pleased to order that the proceedings required by law may be instituted, and if no obstacle interposes, that it may be granted me in full ownership by the superior government.

Wherefore I beseech your honor's equity to vouchsafe to grant this my petition.

I make the necessary verifications under oath, &c.

Angeles March 6, 1840.

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Los Angeles, *March* 6, 1840.

Let the hon. 2d justice of the peace of this city report concerning the contents of this petition, and with respect to the petitioner, and then let this be forwarded to the administrator of the mission of San Juan Capistrano, that he on his part may report what may be behooving, the said judge causing the petitioner in the first place to present the appropriate design of the tract in question.

NARCISO BOTELLO.

At the request of the party,

PERFECTO HUGO REID.

Angeles, March 27, 1840.

To the Prefect ad interim:

I have made the most scrupulous investigations in order to examine the particulars in reference to the petition of José Serrano, and find no obstacle to the said tract being granted to him, if your honor sees proper, since I have knowledge that the premises are unoccupied, and the petitioner owns stock and is an honest man.

JUAN B. LEANDER,
Administrator of Juan Capistrano.

As to the report—

[L. S. Stamp clause as above.]

—which I am required to make concerning the tract of Los Alisos, I state that althoughr it is not in daily occupation, I know that the stock of the mission pastures there, particularly in dry seasons.

San Gabriel, April 2, 1840.

RAMON ARGUELLO.

To his Excellency the Governor:

The prefecture, upon taking cognizance of the foregoing petition and reports, believes, that the prayer of the petitioner ought to be granted, if your excellency's superior pleasure should be so inclined, because the tract in question is absolutely deserted, and Don José Serrano has the sufficient requisites for his petition to be entertained.

TIBURCIO TAPIA.

Monterey, Feb. 15, 1842.

Pending until the visit. (A Scroll.)

Monterey, 18*th June*, 1841.

Let a provisional grant be made out to D'n José Serrano of the tract of Alisos, subject to further determination.

Filed in office, Aug. 8, 1853.

GEO. FISHER, *Sec'y.*

Opinion of Com'r Campbell.

JOSE SERRANO
vs.
THE UNITED STATES.

Cañada de los Alisos, containing 2½ square leagues.

The claimant in this case represents in this petition, that on or about the third day of May, A. D. 1842, he obtained from Governor Alvarado a grant of land known by the name of Cañada de los Alisos, containing one league, bounded east by the hills of the cañada, west by the Arroyo del Toro, south by the road to San Joaquin, and north by the sierra. It is further represented in the claimant's petition, that on or about the sixth day of June, A. D. 1842, claimant received judicial possession from the proper officer of the land described in his grant. The said claimant further represents in his petition, that on or about the 27th day of May, A. D. 1846, he obtained from Pio Pico a grant of land in addition to his said rancho called Cañada de los Alisos, and which additional tract is bounded north by the Arroyo de los Alisos, boundary of Mr. Foster, north by the boundaries of Don Teodosio Yorba, and west by José Sepulveda, containing one and a half leagues. In support of the foregoing allegations the claimant has filed the original grants with certified translations, both of which are proved to be genuine. He has also filed the papers proving the juridical possession as alleged in his petition, all of which are proved to be genuine. There is no proof that either of the grants were ever approved by the departmental assembly, as no proof that juridical possession was ever solicited or given for the land mentioned in the last grant. In relation to the first grant by Alvarado, it is proved by the deposition of Abel Stearns, that the claimant built a house on the land in the year 1841, and that he moved into it with his family, where he continued to reside up to that time, and that the claimant had a stock of horses, cattle and sheep on the ranch. The proof adduced by the claimant does not show that he is the legal owner of the land; his rights therefore rest altogether in equity; under the rules heretofore laid down by this board in their decisions in other cases, the claimant has established such an equity to the land described in the first grant, as we think clearly entitles him to a confirmation of that portion of his claim described in his petition. The juridical measurement, together with the map on file, and which are made evidence in the case, sufficiently identify the land granted, so that the officer will have no difficulty in separating it from the other lands by which it is surrounded. The last grant made in augmentation of the first involves some important questions, which have not as yet been decided by this board. It is insisted on the part of the government, that the governor had no authority to grant lands in augmentation of the original grant, and dispense with the usual conditions of settlement. The 16th article of the regulations of 1828 contains the following provision: "The spaces which may remain between the colonized lands may be distributed among the adjoining proprietors who shall have

cultivated theirs with the greatest application, and may not have received the whole extent allowed by the law." This provision authorizes certain lands lying between other lands which have been colonized to be distributed between the adjoining proprietors, having an eye to the most meritorious. The grant made by governor on the 27th of May, 1846, is in the usual form and has the usual conditions attached, except the condition of settlement, which is omitted. The governor recites in his grant, that whereas Don José Serrano has claimed for his personal benefit and that of his family the addition of a tract of land to that which he possesses at present, which tract is now unoccupied toward the north, and is bounded south by the Arroyo de los Alisos, boundary of Mr. Foster, north by the boundaries of Don Teodocio Yorba, and west by Don José Sepulveda, &c. From this description the land granted was at the time of the grant a space remaining between lands which had been granted to other persons, and was clearly within the description of lands which might, according to the provisions of the 16th section of the regulations, be distributed amongst the adjoining settlers. The claimant belonged to that class, he having received a grant for land adjoining the addition which he sought by way of augmentation to that which he already possessed. The claimant also possessed the qualification to receive, because he had not before that time received the whole extent allowed by the law, having only received one league.

It must not however be considered, that the governor was authorized to make the distribution provided for in the 16th article, of his own mere arbitrary power, or that he could dispense with those requirements of the law which were essential to a conveyance of the legal title from the government to its grantee in this particular; all the public lands occupied the same position, and the same formalities were necessary to pass the legal title to lands granted in augmentation, which were necessary in order to pass the legal estate in the lands embraced in the original grant. A concurrence of all the acts which the law required to be done, not having been proved in the second grant, the rights of the claimant must rest altogether in equity. It may be asked in what particular acts of the party are we to look for those equities which it is alleged fastened on this particular tract of land, prior to the time when a change of jurisdiction took place. There is no proof that the claimant did any act after he received the grant, either by way of improvement or in taking the proper steps to secure the juridical possession of the land in conformity with the conditions of his grant. The only question then is, whether the law required him to do any of those acts which are necessary to create equity in other cases, and without the performance of which no claim could be confirmed, resting upon equity alone. I think the law clearly intended that lands situated as the lands embraced in this grant evidently were, should be distributed amongst the adjoining proprietors, and when distributed should be considered as part of their original grant; but to take the fee out of the government, the usual formalities of the law had to be observed. The

very situation of such lands illustrates the necessity and justice of the provision contained in the 16th article, to which reference has already been made.

When a space of the public lands happened to be surrounded with private property, all ingress to such land was cut off, except where those who owned the adjoining lands had left an unoccupied space between them for that purpose, and they were the persons to whom it could be made most useful, and that, too, only in the mode pointed out in the law, which was by attaching it to those lands which they already possessed. The condition of settlement was therefore very properly omitted in this grant, as the government could not insist upon the party moving from that portion upon which he had built his house, to another part of the same land. The law will not require a vain thing to be done. The only remaining question is, whether the description in the grant sufficiently defines the augmentation so that the precise tract may be surveyed by the officer to whom the law has assigned this duty. After a careful examination of all the papers and the maps filed in the case, we have arrived at the conclusion, that the description is sufficiently definite to enable the officer to identify and locate the land granted. We are therefore of opinion that the second grant as well as the first should be confirmed.

Filed in office, Oct. 21st, 1853.

GEO. FISHER, *Sec'y*.

JOSÉ SERRANO
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioner is valid, and it is therefore decreed that the same be confirmed. The lands of which confirmation are hereby made are known by the name of Cañada de los Alisos, and are the same now occupied by José Serrano, and are bounded and described as follows, to wit: Commencing at the most southerly point of said premises, at the edge of the San Juan road, and running thence north, by the hills of the Cañada de los Alisos, on the east side of said cañada, five thousand varas to a steep hill, where the is a pile of stones; thence running west one thousand nine hundred varas to the Arroyo del Toro; thence running south six hundred varas, to a spot near the lower road of San Joaquin, thence five thousand five hundred varas to the place of beginning, containing in all one square league. And also another piece of land situated on the north of that already described, and adjoining the same, and bounded as follows, to wit: On the south by the Arroyo de los Alisos, north by the boundaries of Dn. Teodocio Yorba, and west by Dn. José Sepulveda, containing one and a half square league. Reference for further description to be

had to the maps which are made part of documents marked Exhibit No. 1 and Exhibit No. 3, filed in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, Oct. 21st, 1853. GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing forty-seven pages, numbered from 1 to 47, both inclusive, to contain a true, correct and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office in case No. 431 on the docket of said board, wherein José Serrano is the claimant against the United States, for the place known by the name of "Cañada de los Alisos."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [G. F.] California, this fourth day of August, A. D. 1854, and of the independence of the United States of America the seventy-ninth. GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing forty-seven pages, numbered from 1 to 47, both inclusive, contain a full, true and correct copy of transcript in case No. 31, filed in my office, wherein José Serrano is appellee, and the United States are appellants, for "Cañada de los Alisos."

In testimony whereof, I have hereunto set my hand and af- [SEAL.] fixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

JOSE SERRANO, appellee, ads. THE UNITED STATES, appellants. } No. 31.—(Transcript No. 431.)

Be it remembered, that on the day of , A. D. 185 , in the district court of the United States for the southern district of

California, the following proceedings were had, to wit: a duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein José Serrano is the claimant against the United States, for the place named "Cañada de los Alisos," was received, filed, and docketed with No. 31, and is as follows, to wit:

(Vide page 1 of Transcript.)

Los Angeles, *Dec. 5th*, 1854.

In same case, notice of appeal filed from decision of commission.

(Vide page 3.)

Los Angeles, *Dec. 29th*, 1854.

In same case, petition for review by U. S. dist. att'y filed.

(Vide page 3.)

Los Angeles, *April* 10, 1855.

In same case, motion for further time to answer filed by att'y for appellee.

(Vide page 11.)

Los Angeles, *April* 10, 1855.

In same case, affidavit of appellee filed.

(Vide page 11.)

Los Angeles, *April* 21, 1855.

In same case, answer of appellee filed.

(Vide page 12.)

Los Angeles, *June 13th*, 1855.

In same case, motion to take further testimony filed.

(Vide page 15.)

Los Angeles, *Oct'r* 11, 1855.

In same case, notice of hearing filed by U. S. dist. att'y.

(Vide page 16.)

Los Angeles, *Dec. 31st*, 1855.

In same case, decree of the court confirming the claim of appellee therein filed.

(Vide page 16.)

Los Angeles, *March 7th*, 1856.

In same case, appeal granted the United States to the Supreme Court of the United States filed.

(Vide page 18.)

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, *October 26th*, 1854.

JOSE SERRANO
vs.
THE UNITED STATES.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 26th day of July, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed December 5th, 1854.

C. E. CARR, *Clk.*

Petition for Review.

In the District Court of the United States for the southern district of California.—Los Angeles county.

JOSE SERRANO
ads.
THE UNITED STATES. } No. 431.

To the honorable Isaac S. K. Ogier, Judge of the District Court of the United States for the southern district of California:

The petition of Pacificus Ord, (of Monterey county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 1st day of November, A. D. 1852, José Serrano presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called "Cañada de los Alisos," containing one league, and an addition of one and a half square leagues, in the words and figures following, to wit: "The petition of José Serrano respectfully showeth, that on or about the 3d day of May, A. D. 1842, Juan B. Alvarado, then governor of California, in the name of the Mexican nation, by virtue of laws then in force, the customs and usages of the country affecting grants of land in California, granted in full property unto your petitioner the tract of land known by the name of Cañada de los Alisos, bounded east by the hills of the said cañada, west by the arroyo del Toro, south by the road of San Joaquin, and the north by the sierra, containing one league of land, (sitio de ganado mayor,) a little more or less, and described in the papers and maps relating to the grant of said land, copies of said papers being herewith filed as part of this petition.

"And your petitioner further shows, that provisional occupation of said lands has been given to your petitioner by the said governor, to wit, on or about the eighteenth day of June, 1841, a copy of the said document being herewith filed as part of this petition.

"And your petitioner further showeth, that on or about the 27th day of May, A. D. 1846, Pio Pico, then governor of California, in the name of the Mexican nation, by virtue of the laws then in force, the customs and usages of the country affecting grants of land in California, granted in full property a tract of land in addition to said rancho, called Cañada de los Alisos, and is bounded south by the arroyo de los Alisos, boundary of Mr. Foster, by the boundaries of Don Teodosio, and west by Don José Sepulveda, containing one and a half leagues, (sitio de ganado mayor,) as described in the papers and map relating to the grant of said addition, copies of said papers being herewith filed as part of this petition.

"And your petitioner further showeth, that he is informed and believes the said grant to your petitioner was approved by the departmental assembly of California, and that a record of this fact is now in the archives, in the custody of the U. S. surveyor general for California. That as soon as copies can be procured of said record, your petitioner prays leave to file the same as part of this petition.

"And your petitioner further showeth, that on or about the sixth day of June, 1842, your petitioner was placed in juridical possession of the tract of land first above mentioned, by the proper officer having jurisdiction of such subject-matters, as appears by original official papers now in the possession of your petitioner ready to be produced and proved. That copies of said papers are herewith filed as part of this petition.

"And your petitioner further showeth, that said lands have always, since the dates of said grants, been in the quiet and peaceable possession of your petitioner, and your petitioner is at the present time in the quiet and peaceable possession thereof. There is no conflicting claim to said land known to your petitioner. Said lands have not been surveyed by the U. S. surveyor general for California. The evidence upon which your petitioner relies in this case are the records of this grant, papers and maps, in the office and custody of the U. S. surveyor general for California, original papers and maps in the possession of your petitioner, and the testimony of witnesses, to be produced before your honorable board, respectfully submitted for such action as the justice and nature of the claim may require."

Your petitioner further represents, that thereafter, to wit, on the 21st day of October, 1853, the said commissioners confirmed by final decree the said claim of the said José Serrano, in the words and figures following, to wit:

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"In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioner is valid, and it is

therefore decreed that the same be confirmed. The lands of which confirmation is hereby made are known by the name of Cañada de los Alisos, and are the same now occupied by José Serrano, and are bounded and described as follows, to wit: Commencing at the most southerly point of said premises at the edge of the San Juan road, and running thence north by the hills of the Cañada de los Alisos; on the east side of said cañada five thousand varas to a steep hill where there is a pile of stones; thence running west one thousand nine hundred varas to the arroyo del Toro; thence running south six hundred varas to a spot near the lower road of San Joaquin; thence five thousand five hundred varas to the place of beginning, containing in all one square league. And also another piece of land, situated on the north of that already described, and adjoining the same, and bounded as follows, to wit: On the south by the arroyo de los Alisos; north by the boundaries of Don Teodocio Yorba, and west by Don José Sepulveda, containing one and a half square leagues. Reference for further description to be had to the maps which are made part of document marked Exhibit No. 1 and Exhibit No. 3, filed in this case.

" ALPHEUS FELCH,
" THOMPSON CAMPBELL,
" R. AUG. THOMPSON,
Commissioners.

"Filed in office, Oct. 21st, 1853.

GEO. FISHER, *Sec'y.*"

That thereafter, to wit, on the 22d day of August, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 431; reference to which it is prayed may be had and made a part of this petition.

That on the 26th day of July, A. D. 1854, the honorable Caleb Cushing, attorney general of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said case, (No. 431,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 5th day of December, A. D. 1854, the said attorney general of the United States filed, or caused to be filed on behalf of the United States, a notice with the said clerk of said district court for the southern district of California, that the appeal in said cause of José Serrano vs. the United States, from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid is within the jurisdiction of this honorable court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous, and ought to be reviewed, reversed

and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause now on appeal from said commissioners to this hon. court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous, on the following grounds:

1. That the said José Serrano shows no valid title to the said land claimed by him aforesaid, and it is denied that he has any.

2. That the said alleged grants of Governor Alvarado and Pio Pico were made in violation of the fourth article of the colonization law of Mexico, of the 18th of August, A. D. 1824, in this: that the land granted, as alleged by claimant, was and is within ten leagues of the sea-coast. And there is no evidence by claimant, that the supreme general executive power of Mexico previously approved of the colonization of the lands of California within ten leagues of the sea-coast. And it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

3. That at the date of the said alleged grant, the said land claimed as aforesaid was occupied by the missions of California, and particularly by the mission of San Juan Capistrano.

4. that the alleged grants of Governor Alvarado, of the date of the 3d of May, A. D. 1842, and of Pio Pico, of the 27th of May, A. D. 1846, have not the conditions required by, and are not made in entire conformity with, the law of Mexico of the 18th of August, A. D. 1824, and the regulations for the colonization of the territories of Mexico, of the 21st of November, A. D. 1828.

5. That the description of the land in the said alleged grant of Governor Alvarado is vague and uncertain.

6. That the alleged act of judicial possession, of the date of the 6th of June, A. D. 1842, by Manuel Dominguez, was unlawful, for the reason that the said José Serrano had not at the time a definitive title to the land of which possession was given, and the alcalde had no lawful authority to give judicial possession, except in cases where the party asking for possession had a definitive title. That the survey of said land by said Dominguez was not made according to the ordinance or law; that it is vague and indefinite.

7. That the alleged grant of Governor Pio Pico, of the said date of the 27th of May, A. D. 1846, contains no sufficient description of the land; that no map is referred to therein to aid the description; that it is vague, uncertain and indefinite.

8. That there is no proof that the claimant, under the title of Pio Pico, ever asked for or received judicial possession of the one league and a half of land therein granted, as alleged.

9. There is no evidence that the said alleged grant of Governor Alvarado, of said date, or of said alleged grant of Governor Pio Pico, of said date, to said José Serrano, of said tracts of land, were ever approved by the territorial deputation or departmental assembly of California, as required by law. And it is denied that either of the said grants by said Governors Alvarado and Pico were approved by said deputation or assembly.

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And no proof having been made by said claimant of the allegations of his said petition, or in support of his said claim, filed as aforesaid, no decree ought to have been made or grounded thereon, but the said petition ought to have been dismissed and said claim rejected by said commissioners, upon the grounds aforesaid.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises and the laws and statutes in such case made and provided, prays that the said José Serrano, or his attorney, may be served with a copy of this petition, and that this honorable court will review the said decision or final decree of confirmation of said commissioners, to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said José Serrano for said land, claimed and confirmed as aforesaid; and all such other orders, judgments or decrees, as may be just, with costs and general relief.

(Sgd.) P. ORD,
Attorney of the United States for the southern district of Cal'a.

Filed Dec. 29th, 1854.

C. E. CARR, *Cl'k.*

Motion for further time to answer.

District Court of the United States for the southern district of California.

JOSE SERRANO, appellee,
ads.
THE UNITED STATES, appellant.

And now, at this day, comes the said José Serrano, by Myron Norton, his attorney, and moves the court for an order granting the said appellee ten days' time from this day to file his answer to the petition of the district attorney, for review in this case.

MYRON NORTON,
Att'y for Appellee.

Angeles, April 10, 1855.

Filed April 10th, 1855.

C. E. CARR, *Cl'k.*

Affidavit of Appellee.

JOSE SERRANO
vs.
THE UNITED STATES. } No. 431.

STATE OF CALIFORNIA,
Los Angeles county.

José Serrano, the above named party, being duly sworn, says, that some twenty days has elapsed since affiant was served with the sum-

mons on an appeal prosecuted by the United States in said case, in the district court of the U. S. for the southern district of California. That affiant understanding only the Spanish language, but can neither read nor write, did not know the contents of said summons, nor the contents of the accompanying petition, until the present time. That affiant did not therefore answer, or cause to be answered, the said petition within the time prescribed in the said summons, for the reason that he did not until now know or conceive what obligations were thereby imposed on him. That affiant lives about 60 miles from the city of Los Angeles, in a neighborhood where there are no lawyers, nor any one who could instruct or counsel affiant in the premises; and that affiant supposed the copy of the summons and petition were documents accrediting further his title to the lands mentioned in said petition, and affiant says he is now prepared to answer said petition. That he has, under the circumstances, used all the diligence possible for him to use, and affiant is informed by his counsel, and believes, he has a good and valid claim to said lands.

his
JOSE ⋈ SERRANO.
mark.

Witness: L. GRANGER.

Sworn to and subscribed before me, this 9th day of April, 1855.

C. E. CARR, *Cl'k.*

Filed April 10th, 1855.

C. E. CARR, *Cl'k.*

Answer.

In the District Court of the United States for the southern district of California.

JOSE SERRANO ads. THE UNITED STATES. } No. 431.

The answer of José Serrano, by leave of the court first had and obtained, to the petition of review filed in this case by the district attorney of the United States for the southern district of California, in behalf of the United States, respectfully showeth:

That heretofore, to wit, on or about the first day of November, A. D. 1852, the said appellee presented his petition to the board of land commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called "Cañada de los Alisos," containing one league of land, and an addition thereto of one and a half square leagues of land.

And the said appellee further shows, that on or about the 3d day of May, A. D. 1842, Juan B. Alvarado, then governor of California, in the name of the Mexican nation, and by virtue of the laws then in force, the customs and usages of the country affecting grants of land

in California, granted in full property to the said José Serrano the tract of land known by the name of Cañada de los Alisos, bounded on the east by the hills of the said cañada, west by the Arroyo del Toro, south by the road of San Joaquin, and on the north by the Sierra, containing one league of land, (sitio de ganado mayor,) a little more or less, and described in the papers and maps relating to the grant of said land, copies of which said papers and maps are contained in the transcript on file in this case, and made a part of this answer.

And the said appellee further answering says, that provisional occupation of said tract of land was given to the said appellee by the said Alvarado, governor as aforesaid, on or about the 18th day of June, A. D. 1841, as appears by the order of said Alvarado, a copy of which is contained in the said transcript, and also made a part of this answer.

And the said appellee further answering says, that on or about the 27th day of May, A. D. 1846, Pio Pico, then governor of California, in the name of the Mexican nation, by virtue of the laws then in force, the customs and usages of the country affecting grants of land in California, granted in full property to the said José Serrano another tract of land in addition to and adjoining the said tract above described, called Cañada de los Alisos, which said tract so granted in addition is described and bounded as follows: on the south by the Arroyo de los Alisos, the boundary of lands of John Foster, by the boundaries of Teodocio Yorba, and west by the boundaries of José Sepulveda, containing one and a half leagues of land, (sitios de ganado mayor,) and more particularly described in the papers and map relating to the grant of the said addition, copies of which said papers are contained in the said transcript, and made a part of this answer.

And the said appellee further answering says, that on or about the sixth day of June, A. D. 1842, your petitioner was placed in juridical possession of the said tract of land first above mentioned by Manuel Dominguez, then first alcalde and judge of first instance of the district of Los Angeles, in which district the said lands are situated, he having jurisdiction and authority to give such possession, a copy of which said act of possession is contained in the said transcript, and made a part of this answer.

And the said appellee further answering says, that he has been in the quiet and peaceable possession of the said tract of land ever since the date of the said grant, and now is in the possession and occupation of the same with his family, and that he has complied with the conditions of the said grants.

And the said appellee further answering denies all and singular, each and every of the said allegations and objections to the validity of the said grants, or either of them, made by the district attorney, and submits and insists that he has a good and valid claim to the said tracts of land mentioned in said grants, and that he is the owner thereof in fee-simple.

And the said appellee further answering says, that on or about the 21st day of October, A. D. 1853, the said land commissioners by final

decree confirmed the said claim of the said appellee to the tracts of land above mentioned.

And the said appellee therefore prays that this honorable court will affirm the said decision of the said commissioners, and decree the said claim to be valid, and the said appellee to be the owner in fee-simple of the said tracts of land.

And for such other and further relief in the premises as equity and justice shall dictate.

NORTON & GRANGER, *Att'ys for Appellee.*

And the said petitioner further answering admits, that the said tract of land is situated in the southern district of California, and within the jurisdiction of this court; and that the transcript in this case, and the notice of intention to prosecute the appeal therein, were duly filed, as alleged in said petition.

NORTON & GRANGER, *Att'ys for Appellee.*

Filed April 21st, 1855.

C. E. CARR, *Cl'k.*

Motion to take Testimony.

District Court of the United States for the southern district of California.

JOSE SERRANO, appellee, ads. THE UNITED STATES, appellant. } No. 31.

Issue joined April 21, 1855.

And now at this day comes the said appellee, by Myron Norton, his attorney, and moves the court, that an order be entered in this case to take further testimony therein, to be used on the final hearing of this case, under the rules and practice of this court.

MYRON NORTON, *Att'y for Appellee.*

Filed June 13th, 1855.

C. E. CARR, *Cl'k.*

Notice of Hearing by United States.

In the District Court of the United States for the southern district of California.

JOSE SERRANO, appellee, ads. THE UNITED STATES, appellant. } No. 31. "Cañada de los Alisos."

To José Serrano or his Attorneys:

Take notice that the above entitled cause will be brought to a hearing by the United States on Friday, the 19th day of October, A. D. 1855, or as soon thereafter as the same can be heard by the court.

Los Angeles, October 11th, 1855.

P. ORD, *U. S. Dist. Atty.*

Filed October 11th, 1855.

C. E. CARR, *Cl'k.*

Decree.

In the District Court of the United States for the southern district of California.—December Term, A. D. 1855.

JOSE SERRANO, appellee, ads. THE UNITED STATES, appellants. } Case No. 31.—Transcript No. 431.—"Cañada de los Alisos."

This cause coming on to be heard on appeal from the final decision of the board of United States land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3d, 1851, upon the transcript of the proceedings, papers, and evidence had and taken before the said board, and it appearing to the court that the said transcript, and a notice of the intention of the said appellant to prosecute the said appeal in this court, have been duly filed according to law with the clerk of this court, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed by the court that the decision of the said commissioners be and the same is hereby affirmed; and that the title of the said appellee, José Serrano, to the lands claimed by him, in this case, to the extent of two and one-half square leagues of land, (dos sitios de ganado mayor,) be confirmed, and that the said title be decreed to be good and valid. The lands of which confirmation is hereby made are the lands granted to the said appellee, José Serrano, on or about the third day of May, A. D. 1842, by Juan B. Alvarado, then governor of California, and the further lands in addition or augmentation of the said first mentioned tract granted to the said appellee, José Serrano, on or about the 27th day of May, A. D. 1846, by Pio Pico, then governor of California, in the name of the Mexican nation. And for a more particular and further description of the said lands reference is hereunto had to the said original grants on file in this case, the maps also on file herein, and the act of juridical possession proven herein; and that if the said extent of two and one half square leagues of land are not contained within the boundaries described in the said grants, maps, and juridical possession aforesaid, then such less quantity is by this court hereby confirmed to the said claimant, José Serrano.

ISAAK S. K. OGIER,
U. S. District Judge.

Notice of Appeal to Supreme Court.

In the District Court of the United States for the southern district of California—Los Angeles, December Term, 1855.

JOSE SERRANO, appellee, ads. THE UNITED STATES, appellants. } No. 31. No. 431 of Transcript.

On appeal from the United States Land Com'n.

On motion of P. Ord, Attorney of the United States for the southern district of California, it is hereby